

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CHRISTOPHER SMITH,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 3:22-CV-352-DRL-MGG

OPINION AND ORDER

Christopher Smith, a prisoner without a lawyer, filed a habeas corpus petition challenging the disciplinary decision (ISP-21-3-134) at the Westville Correctional Facility in which a disciplinary hearing officer (DHO) found him guilty of assaulting staff in violation of Indiana Department of Correction Offense 117. Following a hearing, he was sanctioned with a loss of one hundred eighty days earned credit time and a demotion in credit class. Pursuant to Section 2254 Habeas Corpus Rule 4, the court must dismiss the petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

According to the petition, Mr. Smith did not appeal the disciplinary decision because he was angered and confused by the disciplinary decision and because he had appealed a related disciplinary decision. Generally, state prisoners must exhaust available state court remedies to obtain habeas relief in federal court. 28 U.S.C. § 2254(b). However, “Indiana does not provide judicial review of decisions by prison administrative bodies, so the exhaustion requirement in 28 U.S.C. § 2254(b) is satisfied by

pursuing all administrative remedies.” *Moffat v. Broyles*, 288 F.3d 978, 981-82 (7th Cir. 2002). Because Mr. Smith did not exhaust his administrative remedies with respect to the disciplinary decision that is the focus of this case, the habeas petition is dismissed.

If Mr. Smith wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court*, 569 F.3d 665, 666 (7th Cir. 2009). However, he may not proceed *in forma pauperis* on appeal because the court finds pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith.

For these reasons, the court:

- (1) DISMISSES the habeas corpus petition (ECF 1);
- (2) DIRECTS the clerk to enter judgment and close this case; and
- (3) DENIES Christopher Smith leave to proceed *in forma pauperis* on appeal.

SO ORDERED.

May 4, 2022

s/ Damon R. Leichty
Judge, United States District Court